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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CORONAVIRUS REPORTER, CALID INC.,
on behalf of themselves and all others similarly
situated

Plaintiffs,

v.

APPLE INC., FEDERAL TRADE
COMMISSION,

Defendants.

Case No. 3:21-CV-05567-EMC

**DECLARATION OF RACHEL S. BRASS IN
SUPPORT OF DEFENDANT APPLE INC.'S
RULE 12 MOTION TO DISMISS AND
MOTION TO STRIKE**

1 I hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, counsel of record for
4 Defendant Apple Inc. (“Apple”) in this case. I have personal knowledge of the facts stated below and,
5 if called as a witness, I could and would testify competently thereto.

6 2. I provide this declaration in support of Apple’s Motion to Dismiss under Federal Rule
7 of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction, Rule 12(b)(6) for failure to state a
8 claim upon which relief can be granted, and Rule 12(f) Motion to Strike.

9 3. Attached to this Declaration as Exhibit A is a true and correct copy of the Apple
10 Developer Agreement that was in effect as of March 2020, when Plaintiff Coronavirus Reporter’s app
11 allegedly was rejected for distribution on the App Store, *see* Compl. ¶ 74.

12 4. Attached to this Declaration as Exhibit B is a true and correct copy of current Apple
13 Developer Program License Agreement. The Apple Developer Program License Agreement is publicly
14 available at the following URL: [https://developer.apple.com/support/downloads/terms/apple-](https://developer.apple.com/support/downloads/terms/apple-developer-program/Apple-Developer-Program-License-Agreement-20210607-English.pdf)
15 [developer-program/Apple-Developer-Program-License-Agreement-20210607-English.pdf](https://developer.apple.com/support/downloads/terms/apple-developer-program/Apple-Developer-Program-License-Agreement-20210607-English.pdf).

16 5. Attached to this Declaration as Exhibit C is a true and correct copy of the App Store
17 Review Guidelines, as amended on March 4, 2020, and filed publicly in *Epic Games, Inc. v. Apple Inc.*,
18 No. 4:20-cv-5640-YGR (N.D. Cal.) (Dkt. 1 at page 147).

19 6. Attached to this Declaration as Exhibit D is a true and correct copy of a redlined version
20 of Plaintiff’s Complaint in this action, showing the similarities and differences between the Complaint,
21 ECF No. 1, and the Second Amended Complaint filed by Plaintiff in *Coronavirus Reporter v. Apple*
22 *Inc.*, *see* Second Am. Compl., ECF No. 27, No. 21-cv-00047 (D.N.H. Apr. 26, 2021).

23 7. Attached to this Declaration as Exhibit E is a true and correct copy of the operative
24 complaint in *Epic Games, Inc. v. Apple Inc.*, No. 4:20-cv-5640-YGR (N.D. Cal. Aug. 13, 2020), ECF
25 No. 1.

26 8. Attached to this Declaration as Exhibit F is a true and correct copy of the operative
27 complaint in *Cameron v. Apple Inc.*, No. 4:19-cv-03074-YGR (N.D. Cal. Sept. 30, 2019), ECF No. 53.
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